Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Weistling, Serio, Carmean, Bunting, Smallwood, Tingle and Langan

### **President's Report**

- Regarding a residence on Atlantic Street, Mayor Serio advised that the Town's Solicitor and the attorney for the owner have resolved the problem. Corrective action is being taken.
- Mayor Serio has appointed Council Members Carmean and Smallwood to work with Chief Boyden to address offduty police policy.
- SCAT (Sussex County Association of Towns) has announced that its October 2010 meeting in Seaford will be "Candidates Night."

### **Topics for Discussion and Possible Action**

### a. Resolution #45-2010 Fee Schedule - Council Member Bunting

Motion to adopt – Council Member Carmean

Second – Council Member Tingle

**DISCUSSION** 

Council Member Bunting noted that it contains one change – Trash Collection Fee is increased to \$299. Council Member Weistling requested that, under "other fees," the resolution should more clearly define Bonfire and Special Event fees. Corrected Resolution #45-2010 attached.

Vote: All in favor (7-0)

Resolution #45-2010 Fee Schedule approved

### b. Request to Approve Landscaping Contract - Council Member Bunting

Council Member Bunting explained that the Town has sought outside contractors for regular landscape activities. A member of Public Works will retire and not be replaced; therefore, funds will be available for out-sourcing landscaping. Sposato has provided a bid for landscape activities to include care of the common areas around town hall, SR1, the median and the sign at the north of town. It begins in August 2010 and included mowing, mulching, fertilizing but not watering.

Motion to approve landscaping contract – Council Member Carmean

Second: Council Member Smallwood

DISCUSSION

Mayor Serio noted that this has come about as a result of the loss of a Public Works Department staff member. Council Member Smallwood added that it is cost-effective. Council Member Carmean noted that this is time-consuming work that will now free up staff for other duties.

Vote: All in favor (7-0)

Motion to approve landscape contract passed.

### c. Request to Approve Municipal Comprehensive Plan Third Annual Report - Council Member Smallwood

Council Member Smallwood advised that the report is a synopsis of past year activities as they relate to Comprehensive Plan implementation. The report is due to the State of Delaware on 7/21/2010.

**DISCUSSION - none** 

Motion to approve - Council Member Bunting

Second – Council Member Langan

Vote: All in favor (7-0)

Motion to approve Third Annual Report passed.

# d. Request for Annual Block Party (Hans Banziger) Saturday, September 4, 2010 Sunday, September 5, 2010 – Council Member Smallwood

Council Member Smallwood advised that Mr. Banziger requests council approval to hold a block party on **Saturday**, **September 4, 2010** Sunday, **September 5, 2010** beginning at 6:00 PM on King Street. He advises that this is the same

format as in previous years and that there will be a band; he requests that parking be restricted in the area for the event; and that it is open to all.

Motion to allow Annual Block Party (Hans Banziger) Saturday, September 4, 2010 Sunday, September 5, 2010 – Council Member Smallwood

Second - Council Member Carmean

DISCUSSION - none Vote: All in favor (7-0)

Motion to allow block party passed.

### e. 2010-2011 Budget Proposal - Town Manager Abbott

Town Manager Abbott advised that the capital and operating budget (included in the meeting packet) reflects a ½% increase over the prior year.

Motion to approved 2010-2011 Budget - Council Member Tingle

Second - Council Member Bunting

DISCUSSION – none Vote: All in favor (7-0) 2010-2011 Budget approved

### **Approval of Minutes:**

Motion to Approve the Minutes of June 25, 2010 Meeting - Council Member Carmean

Second: Council Member Smallwood

DISCUSSION – none Vote: All in favor (7-0) Minutes Approved

### Treasurer's Report:

Council Member Bunting noted that the financial report is included in the council meeting packet. The change in investment strategies is showing positive results. \$430,000 was used to purchase the lot on West Cannon Street; the town will receive \$215,000 from the State of Delaware against its purchase cost.

Motion to Accept the Treasurer's Report - Council Member Langan

Second - Council Member Smallwood

DISCUSSION – Mayor Serio asked if the Town has received funding for its streets; Town Manager Abbott advised that the Town will receive \$29,000 from Representative Hocker.

Vote: All in favor (7-0) Treasurer's Report accepted.

# Town Manager Report:

- Town Manager reported that the town has hired a new administrative assistant who will begin work on July 30, 2010.
- The Town has received a \$20,000 grant for HVAC improvements.
- The Town has submitted an application for up to \$77,000 for solar panel installation to the Public Works Building.
- Town Hall properties were inspected by a safety inspector; the Town will receive a discount on its insurance.

### **Department Reports:**

- Beach Patrol –Tim Ferry
  - Mr. Ferry added that, in addition to the statistics included in the meeting packet, the number of rescues has
    increased dramatically. Mr. Ferry was interviewed by phone by The Weather Channel; his reports on rip
    currents were played at various times of the day.
  - o The Bethany-Fenwick Chamber of commerce has named Colin Madden Lifeguard of the Year.
  - A new statistic was added to his report regarding usage of the beach wheelchair and the ATV. Lifeguards have recorded more than 70 uses.

- The FIBP performed well in recent regional competitions and looks forward to competition in Huntington Beach, CA in early August. Mr. Ferry requested that Council consider assisting with travel expenses as they have in the past.
  - Mary Pat Kyle advised that advertizing boats travelling near the shore are illegal; Mr. Ferry advised that he has contacted the State regarding this violation.
- Building Official Pat Schuchman noted that her report is included in the council packet. Mrs. Schuchman added that 34 tax assessment letter have been sent representing an increase in assessed value of \$447,000 (\$500 increase in taxes). No one has appealed the increased assessments. The appeals meeting on July 24, 2010 is cancelled.
- Public Works: Report is included in the council packet.
  - o Mayor Serio noted that Charlie Smith is retiring and that the staff will celebrate on July 29, 2010.
- Fenwick Island Police Department: Report included in the council packet.
  - Mayor Serio thanked Chief Boyden for working with Council on recent issues.

### **Committee Reports:**

- Beach Committee –No report
- Environmental Committee –Council Member Carmean advised that there was no meeting in July.

**Planning Commission:** Winnie Lewis advised that the report is included in Council book and that meetings are held monthly on the second Tuesday at 2:30 PM.

### **Charter & Ordinance:**

Proposed First Reading of Chapter 127 Sanitation – Council Member Weistling

Motion to accept - Council Member Weistling

Second - Council Member Bunting

Council Member Weistling advised that the proposed change deletes the existing Chapter 127 and replaces it with the new Chapter 127 (included at the end of these minutes).

DISCUSSION - none

Vote to accept the Proposed Second Reading of Chapter 127 Sanitation: Smallwood – Aye; Carmean – Aye; Bunting – Aye; Serio – Aye; Weistling – Aye; Tingle – Aye; Langan – Aye
Motion passed (7-0)

### **Old Business:**

None

### New Business - No Action to be Taken:

Council Member Weistling noted the passing of Charlie Wright and offered condolences to his family.

### **Public Participation:**

- John Belian (1 W Houston St) the Fenwick Island Fishing Club will hold a tournament on October 9, 2010. Mr. Belian sought the Town's approval to use the beach from Farmington to Lewes Street and allow a vehicle on the beach on that day.
- Ben Waide (2 W Dagsboro St) thanked the Town for an excellent Annual Bonfire.
- Roy Williams (9 E Essex St) expressed concern that the vacant lot located next to the PNC Bank is being used on weekends as a parking lot. He spoke with bank authorities and they have assured him that they will take action to rectify the situation but that Council must prod them to do so.
  - o Building Official Pat Schuchman noted that Town Ordinance prohibits parking on unimproved lots. The Town will follow up with the bank to take corrective measures.
  - Mr. Williams added that it appears a number of businesses are allowing beach parking on their lots.
- Dick Bowman (7 W Dagsboro St) asked why the \$415,000 transfer of funds to purchase land on Cannon Street is not reflected in the general fund balance; Council Member Bunting noted that the transfer was quickly in and then quickly out and doesn't show as an increase.

- Dick Bowman (7 W Dagsboro St) added that the benches on the dune crossings are too low to the ground. Council Member Bunting advised that this has been fixed.
- Mary Pat Kyle (1205 Bunting) advised that banner planes are flying too close; Mayor Serio asked Town Manager Abbott to work with Mrs. Kyle on the problem.
- Beth Shultz (Oyster Bay Dr) expressed concern that she was not notified of Sussex County's intention to rename W West Virginia Avenue; that the Post Office is not aware of the name change; that there is another street named Oyster Bay in Keenwick.
  - Mayor Serio advised that the name selection was done by Fire District Fenwick Island is within Bethany Beach Fire District and Keenwick is within Roxana Fire District.
  - Ms. Shultz complained that there is still confusion because both the incorporated and unincorporated
    portions of Fenwick are known as Fenwick Island. Ms. Shultz has started a petition to change the name
    since she believes that mail is either not being delivered or delivered incorrectly.
  - Mayor Serio suggested that Ms. Shultz contact Sussex County with her concern(s). She should be aware that all of those on the street will be required to go through a name change again.
- Betsy Mitchell (Fenwick Center Coastal Hwy) expressed concern that street signs have not been changed and
  that a street was named Bjorn Andersen Ave. She believes that residents should have been notified before the
  street name was changed; that the town purchased signs for streets located outside of town limits; and other
  concerns regarding the name change.
  - Mayor Serio reiterated that Sussex County dictated the name change. The Town orchestrated the change at their request. The County designates an address as being where the egress/driveway emerges. That is the emergency address.
- Peggy Steele (38 Oyster Bay Dr) asked how the name came to be changed to Bjorn Andersen Ave.
  - Mayor Serio suggested that, if residents want a different name, they should send a letter to Town Manager Abbott. The town will submit requests to the County.
  - Council Members Smallwood and Carmean expressed concern that they were unaware of the name change and that other street names were changed by resolution.
  - Council Member Carmean offered to provide a contact person to concerned residents after the meeting ends.
  - Mayor Serio does not believe the street should be named for a person.
- Gail Warburton (10 W Farmington St) regarding PNC Bank, Mrs. Warburton asked what action the Town can take if the bank fails to comply with the Town's request to restrict parking on the vacant lot adjacent to the bank. Mrs. Warburton suggested adding wording to the business license to control the problem.
  - Mayor Serio advised that the Town can control the vacant lot only and cannot regulate a business parking lot. This is a recurring problem with other lots, as well. Mayor Serio will consult with the Town Solicitor about corrective action measures and report back at the next Council meeting.
  - Buzz Henifin (48 Windward Way) advised that several years ago the Town compelled Dairy Queen to remove a posted sign that indicated it was "OK" to use the lot for parking when going to the beach.
  - Betsy Mitchell (Fenwick Center) as a business owner, Mrs. Mitchell related that using a chain to control parking is cumbersome and difficult.
- Ann Welsh (3 W Bayard) advised that some businesses have posted sign indicating that beach parkers will be towed and that she would like the landscaping contract be put out for bid next year.
  - Mayor Serio advised that this is a single year contract and that it will be a test of how well the process works.
  - Town Manager Abbott advised that, since the cost of service is less than \$25,000, the town could contact firms directly without putting it out to bid.
- Ann Welsh (3 W Bayard) regarding the new park on West Cannon Street, Mrs. Welsh would like to become a member of the *ad hoc* committee to determine how to use the park. Mrs. Welsh expressed concern that some of the trees and brush have been cleared.
  - o Town Manager Abbott advised that he directed the Public Works Department to clear the brush and to put a screen up to cover those spaces left bare by their removal.
  - o Mayor Serio noted that much planning is needed for that area as well as around Town Hall and that it will be a while before a plan is in place

- Mike Walker (6 W Cannon St) asked the timeline for establishing the *ad hoc* committee and for developing the park.
  - Mayor Serio advised that the town hopes that the Architectural and Engineering firm will incorporate
    the park into its plans for the public safety building within the next 6-9 months. The park must have a
    kayak ramp but all other uses of the park are at the town's discretion.
- Beth Shultz (Oyster Bay Dr) would like the town to address landscaping the median strip at the south of town.
   Mayor Serio advised that the State of Delaware must direct any improvements in that area.
- Buzz Henifin (48 Windward Way) expressed his unhappiness with the tree-cutting at the West Cannon Street lot. Mayor Serio advised that the Council was unaware of the action but will address it with the Town Manager.

### **Upcoming Events and Meetings:**

Mayor Serio announced all meetings and events.

Motion to Adjourn: Council Member Carmean Second: Council Member Bunting All in favor to adjourn (7-0) Mayor Serio adjourned the meeting at 5:00 PM.

Respectfully submitted,

Agnes DiPietrantonio, Town Clerk For Diane Tingle, Secretary

### NOTICE

On July 23, 2010 The Fenwick Island Town Council Passed the Following Resolution #45-2010 Fee Schedule

### L - ANNUAL BUSINESS LICENSE FEES

- (1) Retail Merchant (100-3-A)
  - (a) \$150 + .08 per square foot of Floor Space.
- (2) Building or Service Contractor (100-3-B)
  - (a) \$50 if Revenue made in Town is less than \$1500 yearly.
  - (b) \$150 if Revenues made in Town are more than \$1500 yearly.
  - (c) \$5 for additional license decal.
- (3) Rental Landlord (100-3-C)
  - (a) \$150 for Residential and Commercial rentals.
  - (b) \$150 + \$7.20 per sleeping unit for motels/hotels.
- (4) Vending Machines (100-3-D)
  - (a) \$25 for newspaper & postage.
  - (b) \$50 for dispensing machines; such as drink, food, candy, ice etc.
  - (c) \$50 children's amusement.
  - (d) \$75 music.
  - (e) \$250 amusement & games.

### **B - BUILDING PERMIT FEES**

- (1) 3% of estimated construction cost. \$50 minimum. (61-8)
- (2) Permit for approved building move \$350. (61-12-B)

### S - SIGN PERMITS FEES (136-6-c)

- (1) Multiple use identification sign \$200 (135-6-c)
- (2) Single use identification sign \$2 per lineal foot up to maximum of \$100. (135-6-c)
- (3) All other sign permits \$20 (135-6-c)

### P - PARKING PERMIT FEES (112-11-P)

- (1) Daily weekday \$10
- (2) Daily weekend & holiday \$20
- (3) Weekly \$60
- (4) Weekend \$50 (3-day)
- (5) Monthly \$200
- (6) Summer \$400
- (7) Replacement of lost permit (property owner & purchased) \$50
- (8) Extra Resident Hang Tag (blue) \$50

### C - COPY FEES

- (1) Xerox or computer printout copy \$ .50
- (2) Audio cassette/CD/DVD- \$25
- (3) Town Code Book \$300
- (4) Town Merchant Address List \$50
- (5) Property Owner Address List \$75
- (6) Printed Property Owner Address Labels \$150

### F - FINANCIAL FEES

- (1) Charge for checks returned for insufficient funds \$50
- (2) Late payment of License Fee \$75
- (3) Collection letter from Town Legal Counsel \$150

### T - TRASH COLLECTION FEE (127-2)

(1) \$299 per Household per year.

### H - HEARING FEES

- (1) Board of Adjustment & Zoning \$750 (160-10-B)
- (2) Council Hearing/ House Move \$275 (61-12-A)
- (3) Council Hearing/Sub-Division \$275 (142-2-A)
- (4) Council Hearing/ Code Variance \$275 (160-10-B)

#### O - OTHER FEES

- (1) Beach Bonfire Permit \$25 fee & \$100 deposit (73-2-B)
- (2) Animal Impoundment \$100 + \$60 per day (48-2)
- (3) Villalon Hall Rental \$20 fee +\$40 deposit
- (4) Ambulance Service \$33 per household per year
- (5) Special Events \$50 fee + \$150 deposit plus \$25 each additional group of 25 exceeding 75 person limit. \$100 hr fee Police Coverage events exceeding 75 persons.

(1) \$1.92 per 100	
Attest:	Audrey Serio, President of Council
	Diane B. Tingle, Council Secretary
I, Diane B. Tingle, Secretary of the Town Counc do hereby certify that the foregoing is a true and noted exception by the President and Council at quorum was present and voting throughout and	correct copy of the Resolution passed with the a meeting on July 23, 2010, at which a
Date	Diane B. Tingle, Council Secretary

Approved First Reading - June 25, 2010

APPROVED Second Reading - July 23, 2010

PASSED July 23, 2010

#### PROPOSED: (Delete EXISTING Chapter 127)

#### Chapter 127, SANITATION

## ARTICLE I Fees for Collection of Solid Waste

§ 127-1. Definitions.

DWELLING, SINGLE-FAMILY -- A building constructed for occupancy as a single-family residence.

PERSON -- Includes firms, companies, corporations, partnerships, associations or any organization entity as well as individuals.

SUITABLE PROTECTION — a means or device to enclose trash containers which will also prevent the containers, lids and their contents from being blown about by the wind. Suitable protection shall be constructed to permit easy access to the enclosed trash containers for trash removal by the collector and shall be no higher than 30 inches above the surrounding ground level where top access only is provided. If higher than 30 inches, an appropriate side or back shall be open or readily opened to permit access to each container and such container shall be readily accessible from the street.

<u>TOWN COUNCIL DESIGNEE</u> – member of the Fenwick Island Police Department or Town of Fenwick Island employee.

TRASH -- Includes garbage, rubbish, yard waste, construction debris, recyclables and/or any other foreign waste.

§ 127-2. Annual service fee.

Property owners of single-family dwellings in the Residential Zone and property owners of single-family dwellings in the Commercial Zone in the Town of Fenwick Island, Delaware, shall be assessed an annual service fee for the collection of garbage, <u>recyclables</u>, <u>yard waste</u> and trash by the Town of Fenwick Island. Owners of properties in the Commercial Zone used for purposes other than single-family dwellings shall engage the services of private garbage, <u>recyclables</u>, <u>yard waste</u> and trash removal companies for the removal of such items in accordance with the rules and regulations set forth below in Article II, Handling and Disposition of Solid Waste.

§ 127-3. Determination of fee.

The annual service fee for single-family dwellings shall be determined by Town Council as a budget item annually.

§ 127-4. Rendering and payment of fee.

R - Real Estate Tax

For property owners of single-family dwellings, the notice, rendering and payment of the annual service fees for the collection of garbage, <u>recyclables</u>, <u>vard waste</u> and trash shall be in the same manner as is prescribed for the notice, rendering the payment of the Town property tax, pursuant to Section 24 of the Town Charter. The proration of the annual fee, if any, shall be determined in accordance with the procedures for the proration of taxes on new buildings as set forth in Chapter 146, Taxation, Article 1, Reassessment.

#### § 127-5. Delinquent fees.

For property owners of single-family dwellings, the procedure for the collection of any delinquent annual service fee for the collection of garbage, <u>recyclables</u>, <u>yard waste</u> and trash shall be the same as prescribed for the collection of a delinquent property tax, pursuant to the provisions of the Town Charter.

# ARTICLE II Handling and Disposition of Solid Waste

§ 127-6. Garbage on public or private property prohibited.

It shall be unlawful for any person to place trash, yard waste, construction debris or any other foreign waste on any public or private property within the Town of Fenwick Island except as provided in §61-15A and §127-7 hereof.

§ 127-7. Regulations for handling and disposition of trash.

# A. Concerning the handling and disposition of trash in the Residential Zone, the following rules and regulations shall apply:

- The owner or occupier of any given property shall place all trash into containers and place the
  containers along the curb in front of such property in order that the trash may be conveniently removed by the
  collector thereof.
- All bramble, sticks, tree trimmings and the like shall be securely tied together in bundles, each of which shall not exceed 50 pounds in weight or four feet in length.
- All trash shall be placed in covered plastic or metal containers, not to exceed 32 gallons in size or 50 pounds in weight when filled, and shall be watertight to prevent leakage and covered to exclude water.
- Unless suitable protection is provided by a container bin, all containers shall be placed along the front property line no earlier than 12:00 noon the day prior to collection and removed no later than 8:00p.m. on the day trash has been collected.
- No person shall dispose of any <u>garbage, recyclables, yard waste trash or litter</u> of any kind by throwing or placing it upon any property within the confines of the Town or within a distance of one mile of the Town limits.
- No person shall put or place any <u>garbage, recyclables, yard waste and trash</u> collected or gathered from one property upon or in front of any other property or within the Town without the express consent and permission of the owner of such other property to do so.

All public waste containers placed by the Town of Fenwick Island shall be used by the general
public for the disposal of trash accumulated while using the public areas of the Town. These containers shall not
be used for disposal of residential and/or commercial trash.

# B. <u>Concerning the handling and disposition of trash in the Commercial Zone, the following rules and</u> regulations shall apply:

- 1. Any business which continuously uses more than five containers of trash, rubbish or garbage shall be required to place its garbage, recyclables, yard waste and trash in a one- or two-ton dumpster provided by the owner. All dumpsters shall have tight-fitting lids which shall be kept closed except when filling or emptying and shall be watertight to prevent leakage. All dumpsters shall be situated on a paved area at least of equal size as the dumpster and shall not be less than 10 feet from any neighboring or adjacent property line.
- All businesses should have trash removed as often as necessary to comply with Subsection <u>B3(a)</u> and <u>B3(b)</u> of this section.
  - The following maintenance requirements must be met:
- (a) The owner and/or tenant of any property shall maintain <u>trash containers</u> of all kinds in a well repaired, clean, odorless condition so that these containers shall not in any way be offensive or injurious to the health of the residents of the Town of Fenwick Island. The owner and/or tenant of any property shall maintain the area where <u>trash containers</u> and dumpsters are placed in a clean, odorless and sanitary condition so that this area shall not be offensive by odor or injurious to the health of the residents of the Town of Fenwick Island or kept in an unsightly condition or in a condition which is detrimental to the adjacent properties and the general neighborhood.
- (b) <u>A Town Council designee</u> shall have discretion in determining when there exists an unsanitary condition of either the containers or the area where the containers are placed so that the containers and container area are not injurious to the health of the residents of the Town of Fenwick Island, cause an unsightly condition or become detrimental to the adjacent properties and the general neighborhood.
- (c) After making such a determination, a <u>Town Council designee</u> shall give written notice of the violation to the owner <u>and/or tenant</u> of the property on which the condition exists. The notice shall set a time limit for correction, removal or abatement of the condition, which period shall not exceed five days. Said notice may be served by the <u>Police Department or a Town employee</u>, or it may be served by registered or certified mail.
- (d) The owner <u>and/or tenant</u> of the property shall be guilty of failing to correct, remove or abate an unsanitary condition that may be injurious to health, unsightly or detrimental to the adjacent properties or general neighborhood if the condition continues to exist on or after the removal or abatement date that is set on the written notice.

#### § 127-8. Violations and penalties

Any person violating any provision of this Article shall, upon conviction thereof, <u>be subject to a fine of \$200</u>. It shall be determined that each day that an unsanitary or injurious to health condition or a condition which is unsightly or detrimental to the adjacent properties or general neighborhood exists after the date set for correction of the condition shall constitute a separate offense.

#### ARTICLE III

#### **General Provisions**

#### § 127-9. Unsanitary conditions prohibited.

- A. It shall be unlawful to pump, drain, pour or throw in or on the streets, alleys, ditches, underdrains, water, lagoons, bay or private property within the Town of Fenwick Island, Delaware, any sewage, slops, filth, unclean water or other liquids that are unsanitary or injurious to the health of the residents of said Town. All water removed from a pool, hot tub or spa shall be deposited in a sanitary sewer system.
- B. After proper notice is provided, it shall be unlawful to fail to correct or eliminate any unsanitary or health condition deemed injurious to the residents of the Town of Fenwick Island.
- § 127-10. Determination of unsanitary condition and notice of violation.
- A. The <u>Town Council designee</u> shall have discretion in determining where there exists a condition that may be unsanitary, or in any way injurious to the health of the residents of the Town of Fenwick Island
- B. After making such a determination, the <u>Town Council designee</u> shall give written notice of the violation to the owner, occupier of the structure home, building, vehicle or other object or another person appearing to be causing such condition. The notice shall set a time limit for the correction, removal or abatement of the condition, which period shall not exceed 15 days.
- C. Said notice may be served by Police Department or a Town employee, or it may be served by way of registered or certified mail.

#### § 127-11. Violations and penalties.

- A. A person shall be guilty of failing to correct, remove or abate any violation of this ordinance if such violation continues to exist on or after the date set for removal in the given notice. The notice given under this Article shall expire one year from the date set for correction, removal or abatement.
- B. <u>Upon conviction for failure to correct, remove or abate an unsanitary or injurious to health condition, the guilty party shall be fined \$200 for each offense. It shall be determined that each day that the condition exists after the date set for correction, removal or abatement shall constitute a separate offense, thereby permitting the imposition of a fine for each day of the continuing offense.</u>